

FILED

JUN - 5 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Royal Kenneth HAYES,

Petitioner,

v.

Robert L. AYERS Jr., Acting Warden of San
Quentin State Prison,

Respondent.

Case Number C 01 3926 MHP

DEATH-PENALTY CASE

JUDGMENT

□

The Court has found that Respondent is entitled to summary judgment on all claims in Petitioner's Amended Petition for Writ of Habeas Corpus. Accordingly, and good cause therefor appearing, the Court hereby denies the Petition, grants judgment to Respondent and against Petitioner, and dismisses the present action on the merits.

"[A]n appeal may not be taken to the court of appeals from" the denial of a habeas petition unless a certificate of appealability is issued. 28 U.S.C. § 2253(c)(1) (2007). A certificate of appealability may be issued "only if the applicant has made a substantial showing of the denial of a constitutional right," *id.* § 2253(c)(2); the certificate "shall indicate which specific issue or issues satisfy [this] showing," *id.* § 2254(c)(3).


Despite having been given the opportunity to do so, Petitioner has not requested a certificate of appealability. Moreover, as indicated in the Court's prior orders granting

Respondent summary judgment, Petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, and good cause therefor appearing, the Court shall not issue a certificate of appealability.

It is so ordered and adjudged.

DATED: _____

May 31, 2007



MARILYN HALL PATEL
United States District Judge